

LEGISLATIVE COUNCIL BRIEF

Social Workers Registration Ordinance (Chapter 505)

Social Workers Registration (Amendment) Bill 2024

INTRODUCTION

A At the meeting of the Executive Council on 14 May 2024, the Council ADVISED and the Chief Executive ORDERED that the Social Workers Registration (Amendment) Bill 2024 (“Bill”), at **Annex A**, should be introduced into the Legislative Council (“LegCo”).

JUSTIFICATIONS

2. The Social Workers Registration Ordinance (“SWRO”) was enacted in 1997 to provide for the registration of social workers and disciplinary control of the professional activities of registered social workers (“RSWs”), and for related matters, including the setting and review of the qualification standards for the registration of social workers, formulation and approval of codes of practice, and handling of disciplinary matters. The Board was established to handle social worker registration matters and monitor the professional conduct of RSWs.

3. The social work profession plays a pivotal role in helping people in need. RSWs shoulder social and professional responsibilities towards clients with whom they are in contact during the course of service delivery. They have the trust of these clients and stand to exert on them significant influence. It is imperative for the Board to perform its statutory functions in a fair and impartial manner with due regard to public interest, so as to safeguard the interest of their clients and the community as a whole, and to

maintain the credibility of the profession and promote its long-term development.

4. The following incidents demonstrate the need to improve the governance of the Board so that it would more effectively serve the interests of the wider community and safeguard national security:

- (a) The Secretary for Labour and Welfare (“SLW”) made the Social Workers Registration Ordinance (Amendment of Schedule 2) Notice 2022 (“the Notice”) to add “an offence endangering national security” to Schedule 2 to the SWRO, so that a person convicted of any offence endangering national security is disentitled from being or continuing to be an RSW. The Notice came into effect on 22 July 2022. To date, the Board has not taken concrete action to put in place a mechanism to ensure the effective implementation of the Notice, despite the Labour and Welfare Bureau’s notification on 6 July 2022 of the imminent commencement of the Notice and the Board’s obligation in implementing it, as well as a subsequent meeting with the Board on 20 September 2022 to explain the importance of the Notice.
- (b) The Board approved by majority vote the applications for registration or renewal of registration of a number of persons/RSWs who were convicted of serious criminal offences and sentenced to imprisonment, in circumstances where the nature and seriousness of the offences in question cast grave doubts on the relevant persons/RSWs’ fitness and propriety to be registered as an RSW, and the conduct of those persons/RSWs has brought the profession of the social worker into disrepute.
- (c) The Board approved by majority vote the appointment of an RSW who had been charged of an offence of riot to serve on the Disciplinary Committee Panel (“DCP”) while legal proceedings regarding the criminal charge was ongoing, despite the objection of the remaining members.
- (d) The Board requested the Government in January 2022 to publish in the Gazette a set of revised Code of Practice (“CoP”), despite the concerns by some sectors of the society that certain provisions may be interpreted as

promoting non-compliance with the CoP. The Board did not pursue the publication of the revised CoP eventually.

- (e) The Board decided by majority vote to cease the operation of the Voluntary Continuing Professional Development Scheme for Registered Social Workers from end 2023, putting a halt to the Board's promotion work of continuing professional development ("CPD") of the social work profession.

5. Under Articles 3(2) and 6(1) of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, it is the duty and responsibility of the HKSAR and all individuals in HKSAR to safeguard national security. Section 8(3) of the Safeguarding National Security Ordinance (Instrument A305) also stipulates that if the law of the HKSAR confers any function on a person, the function is to be read as including a duty to safeguard national security. It is clear that the Board in the performance of its functions has a duty to safeguard national security. To better safeguard national security, which is in turn conducive to public interest, and to foster progressive development of the social work profession, there is an urgent need to improve the governance of the Board. This includes reconstituting the Board's composition, strengthening its disciplinary mechanism to ensure prompt removal of RSWs convicted of serious offences, establishing CPD requirements for RSWs as well as requiring all Board members to take an oath affirming that they will uphold the Basic Law and bear allegiance to the HKSAR of the People's Republic of China ("PRC") ("Oath-taking Requirement").

LEGISLATIVE PROPOSAL

6. To improve the governance of the Board, it is proposed that amendments should be made to the SWRO to:

- (a) expand membership of the Board for broader and more balanced participation;

- (b) enable prompt removal of RSWs convicted of serious offences;
- (c) lend clarity to the effective date of the CoP and DCP appointment;
- (d) set CPD requirements for the social work profession; and
- (e) introduce the Oath-taking Requirement on all members of the Board.

Expansion of Board membership

7. Currently, the SWRO provides that the Board must consist of 15 members of whom eight must be RSWs elected by RSWs, six must be persons appointed by the Chief Executive (“CE”) and one must be the Director of Social Welfare (“DSW”) or his/her representative. We propose to broaden the representation and participation in the Board by increasing the number of appointed members from six to 17, of whom not fewer than five must be RSWs. We also propose to appoint one more public officer who must be an RSW to the Board as a member. The reconstituted Board will have a total of 27 members, including 17 appointed members of whom not fewer than five must be RSWs, eight members who must be RSWs elected by RSWs, the DSW (or his/her representative) and one public officer who must be an RSW. Among the 27 members, there would be at least 14 RSWs. The appointment of RSWs would complement Board members returned by election among RSWs in terms of their background and position to ensure that different voices within the social work profession would be brought into the Board and reflected in its decisions. This would be conducive to the development of the profession. At the same time, appointing more members from other professions and prominent personalities from different sectors of the community would bring in a broader and more balanced participation in the Board to provide the checks and balance required for ensuring that public interest will be safeguarded. A larger Board size will also cater for an anticipated increase in workload both arising from the new procedures in dealing with RSWs convicted of specified serious offences and enhancement in CPD.

8. We further propose to make amendments consequential to the proposed changes in the Board's composition. These include the minimum number of members constituting a quorum (to be increased from six to ten) and for submitting written requisitions before the Chairperson is required to give notice of a Board meeting (to be increased from eight to ten). We also propose to add a new provision to specify that the power of the Board to transact business and the validity of the proceedings of the Board will not be affected by a vacancy in the membership of the Board, and that, upon appointment of new members pursuant to the enhanced composition and before transacting any other business, the Board must hold the first meeting within 21 days for electing afresh the Chairperson and Deputy Chairperson.

Mechanism for prompt removal of RSWs convicted of specified serious offences

9. Section 20(1) of the SWRO provides that the registration of a social worker is valid for a period of 12 months from the date of registration, and may be renewed annually by application of the person so registered. The SWRO provides the Board with the power to refuse to register a person who is subject to a disciplinary order at the time of application for registration or is convicted of specified serious offence(s). However, if an RSW is convicted of serious offences but his/her registration is not yet due for renewal, the SWRO currently does not empower or require the Board to immediately resolve whether or not to remove the name of the RSW concerned. We propose to institute a new mechanism for prompt removal of RSWs convicted of specified serious offences by empowering the Board to give direction to the Registrar to remove the name of an RSW who has been convicted of certain offences from the register of RSWs ("the Register"). Specifically, –

- (a) The Board is empowered to direct the removal of an RSW's name from the Register permanently or for such period (not exceeding 5 years) as the Board thinks fit, if the social worker has been convicted of an offence that may bring the profession of social worker into disrepute; and is punishable with imprisonment. Under such circumstances, the RSW

concerned may make a written representation within 28 days for the Board's consideration.

- (b) The Board is required to direct the removal of an RSW's name from the Register permanently, if the person has been convicted of an offence as specified in Schedule 2 to the SWRO¹, unless all members of the Board resolve otherwise. Under such circumstances, no written representation from the RSW concerned would be allowed.

10. We propose that the Board's direction to remove an RSW's name from the Register under the new mechanism takes effect on the date of publication of the direction to provide transparency and certainty. As the Board's decision to reject an application for registration or renewal of registration is currently appealable to the Court of Appeal, we propose that the Board's direction under the new de-registration mechanism should also be appealable to the Court of Appeal. The Board's direction has effect from the date of its publication until and unless quashed by a ruling of the Court of Appeal.

Clarification of Effective Dates of CoP and DCP appointment

11. Section 10(2) of the SWRO provides that where a CoP is approved, the Board must, by notice in the Gazette, identify the CoP concerned and specify the date on which its approval is to take effect. Section 10(5) of the SWRO provides that where the Board withdraws its approval from an approved CoP, the Board must, by notice in the Gazette, identify the CoP concerned and specify the date on which the Board's approval of it is to cease to have effect. We propose to expressly provide that the CoP takes effect or ceases to have effect from the date on which SLW publishes a notice in the Gazette.

12. Section 26(3) of the SWRO provides that an appointment to the DCP must be notified in the Gazette. Similarly, we propose to expressly

¹ Schedule 2 lists out offences which disentitle persons from being or continuing to be RSWs, such as an offence endangering national security, ill-treating a child, incest, rape, indecent assault, murder, manslaughter, abduction of child or juvenile, etc.

provide that any appointment and revocation of appointment to the DCP takes effect from the date on which SLW publishes a notice in the Gazette.

Setting CPD Requirements for the social work profession

13. We propose to amend the SWRO so that the Board will take on a new function to set CPD requirements for the social work profession. The Board should be given the power to reject an application for renewal of registration if the applicant fails to meet the CPD requirements. We envisage that with the new statutory function and power, the reconstituted Board will devise and implement a CPD framework to the benefit of the long-term development of the social work profession.

Introduction of Oath-taking Requirement

14. We propose to require all members of the Board to fulfil the Oath-taking Requirement. The persons concerned must sign the Board Member Oath in a prescribed form affirming that they will uphold the Basic Law and bear allegiance to the HKSAR of the PRC, and return the signed oath to SLW within the period specified by SLW. A person must not take up the office or continue to hold the office as a member of the Board if:

- (a) he/she fails to return the duly signed Board Member Oath within the specified period;
- (b) SLW is satisfied that the person does not genuinely and truthfully intend to uphold the Basic Law and bear allegiance to the HKSAR of the PRC;
- or
- (c) SLW is satisfied that the person intentionally alters or distorts the wording of the Board Member Oath.

15. The Oath-taking Requirement applies to a person who is holding the office of a member of the Board immediately before the commencement date of the Amendment Ordinance. If the person declines or neglects to take the Board Member Oath, the person must not continue to hold the office.

16. We propose to stipulate the breach of the Board Member Oath as a valid ground for the CE to declare a Board member's office to be vacant under the SWRO.

17. The Bill will further provide that where a person declines or neglects to take the Board Member Oath, or where a person whose office is declared by the CE to be vacant on the ground of the person's breach of the Board Member Oath, that person is disqualified from holding the office of a member of the Board, and is within 5 years after the expiry date of the period specified by SLW for returning the duly signed Board Member Oath or after the date on which the declaration is made (as the case may be), disqualified from (i) being nominated as a candidate at an election of members of the Board, or being elected as a member of the Board; and (ii) being appointed as a member of the Board.

18. We propose that in the case where there is a vacancy in the office of an elected member, regardless of the grounds for giving rise to such a vacancy, the Board is to decide whether, and if so, when it is reasonably practicable to hold an election to fill the vacancy. An election must not be held within 12 months preceding the date on which the term of the office would have ended had the vacancy not arisen.

OTHER OPTIONS

19. The current composition of the Board and certain aspects of its mode of operation could not ensure that the public interest can be safeguarded and are not conducive to the long-term development of the social work profession. Maintaining the status quo will only allow the unsatisfactory situation to drag on. Since the composition of the Board and related arrangements are stipulated in the SWRO, the improvements have to be implemented by legislative amendments.

THE BILL

20. The main provisions are –

Composition of the Board

- (a) **Clause 4(1), (3) and (4)** amends section 4(3) of the SWRO to increase the number of members of the Board from 15 to 27 and to change the composition of the Board.
- (b) **Clause 6(2) and (6)** respectively amends section 5(2) and (3) of the SWRO to provide that certain requirements on the tenure of office do not apply to certain members of the Board.

Oath-taking Requirement

- (c) **Clause 5** adds a new section 4A to the SWRO to require a person who is holding or is to take up the office of a member of the Board to take a Board Member Oath (the definition of which is added to section 2(1) of the SWRO by clause 3).
- (d) A Board Member Oath is to be taken by signing, completing and returning a written oath in the form prescribed in the **new Schedule 3** added by clause 26 to the SWRO.
- (e) **Clause 5** also adds a new section 4B to the SWRO to provide for the consequences of declining or neglecting to take a Board Member Oath.
- (f) **Clause 6(13) and (17)** respectively adds a new section 5(3)(g) and a new section 5(3A) to the SWRO to provide for the consequences of breaching a Board Member Oath.

Vacancy in Membership of Board

- (g) **Clause 7** adds a new section 5A to the SWRO to provide for the filling of a vacancy in the office of an elected member of the Board.
- (h) **Clause 13** adds a new section 14A to the SWRO to provide that any vacancy in the membership of the Board does not affect the power and proceedings of the Board.

Meetings of Board

- (i) **Clause 8(2)** amends section 6(2) of the SWRO so that the minimum number of members of the Board required to give a written requisition to the Chairperson of the Board for convening a meeting of the Board is increased from 8 to 10.
- (j) **Clause 8(4)** amends section 6(3) of the SWRO to increase the quorum of a meeting of the Board from 6 members to 10 members.

CPD Requirements

- (k) **Clause 9(2)** amends section 7(1) of the SWRO to add a new function of the Board to set CPD requirements for RSWs.
- (l) **Clause 14(1)** amends section 20(4) of the SWRO to provide that the Board may reject an application for renewal of registration by an RSW if the social worker has failed to comply with CPD requirements.

Dates on which Codes of Practice Take Effect and Cease to Have Effect

- (m) **Clause 11(1)** amends section 10(2) of the SWRO to stipulate that a CoP approved by the Board takes effect on the date on which

the SLW publishes a notice in the Gazette stating that the CoP has been so approved.

- (n) **Clause 11(2)** amends section 10(5) of the SWRO to stipulate that a CoP the approval of which is withdrawn by the Board ceases to have effect on the date on which the SLW publishes a notice in the Gazette stating that the approval has been so withdrawn.

Board's Handling Procedures relating to RSWs Convicted of Certain Offences

- (o) **Clause 15** adds a new Part IIIA (new sections 24A to 24E) to the SWRO that relates to the direction of the Board (“Board’s direction”) to remove the name of an RSW who has been convicted of certain offences from the Register. More specifically—

- (1) **the new section 24A(1)** empowers the Board to direct the removal of an RSW’s name from the Register if the RSW has been convicted in Hong Kong or elsewhere of an offence that—
 - (i) may bring the profession of social worker into disrepute; and
 - (ii) is punishable with imprisonment (whether or not the RSW was sentenced to imprisonment);
- (2) **the new section 24A(4)** requires the Board to direct the removal of an RSW’s name from the Register if the RSW has been convicted of an offence referred to in section 17(4)(b)(i) or (ii) of the SWRO, unless all the members of the Board resolve otherwise;
- (3) **the new section 24B** provides for the right of the RSW concerned to make written representation if the Board intends to exercise the power under the new section 24A(1);

- (4) **the new section 24C** provides for the service of notice of the Board's direction;
- (5) **the new section 24D** provides for the publication of the Board's direction; and
- (6) **the new section 24E** provides for the carrying out of the Board's direction by the Registrar.
- (p) **Clause 12(2)** amends section 12(2)(a) of the SWRO to provide that certain functions and powers of the Board under the new Part IIIA are non-delegable.
- (q) **Clauses 16(4), (7) and (14), 18(3), (4) and (5) and 19(2)** amend certain provisions in Part IV of the SWRO so that a conviction described in paragraph 20(o)(1) or (2) is no longer a disciplinary offence under that Part, and so as to make related amendments.
- (r) **Clause 21(2), (4), (5), (8), (9) and (10)** amends section 33 of the SWRO so that a person who is aggrieved by the Board's direction may appeal to the Court of Appeal.
- (s) **Clause 22(2)** amends section 38(6) of the SWRO to provide that the Board may determine the fee payable for the restoration of a name to the Register following the carrying out of a direction under the new section 24A(1).

Disciplinary Proceedings of Board

- (t) Under section 25(3) of the SWRO, 2 members of the Board are required to decide whether to refer a complaint to the Board for the carrying out of the disciplinary proceedings under Part IV of the SWRO. **Clause 16(12), (13), (14) and (15)** amends that section to increase the number of such members from 2 to 3 and to provide that certain decisions can be made if satisfied by at least 2 of those 3 members.

Effective Dates of Appointment (and its Revocation) of Members of Board's DCP

- (u) **Clause 17(1)** amends section 26(3) of the SWRO to stipulate that the Board's appointment of a member of a DCP takes effect on the date on which the SLW publishes a notice in the Gazette stating that the appointment has been made.
- (v) **Clause 17(2)** adds a new section 26(4) to the SWRO to stipulate that the Board's revocation of an appointment of a member of a DCP takes effect on the date on which the SLW publishes a notice in the Gazette stating that the revocation has been made.

Savings and Transitional Provisions

- (w) **Clauses 24 and 26** respectively add a new section 40 and a new Schedule 4 to the SWRO to stipulate savings and transitional provisions. More specifically—
 - (1) **section 2 of the new Schedule 4** provides that—
 - (i) the offices of the Chairperson and the Deputy Chairperson of the Board become vacant at the beginning of the date on which the new Schedule 4 comes into operation (“material date”); and
 - (ii) the Board must not transact any business beginning on the material date until a new Chairperson and a new Deputy Chairperson are elected;
 - (2) **section 3 of the new Schedule 4** deals with the scenario where a complaint concerning a disciplinary offence has been submitted to 2 members of the Board under section 25(3) of the SWRO as in force immediately before the material date but those members have not decided whether to refer it to the Board before the material date; and

- (3) **section 4 of the new Schedule 4** deals with complaints concerning a disciplinary offence under section 25(1)(e) or (f) of the SWRO as in force immediately before the material date that have been referred to the Board before the material date.

B 21. The existing provisions being amended are at **Annex B**.

LEGISLATIVE TIMETABLE

22. The legislative timetable will be –

Publication in the Gazette	17 May 2024
First Reading and commencement of Second Reading debate	22 May 2024
Resumption of Second Reading debate, committee stage and Third Reading	To be notified

IMPLICATIONS OF THE PROPOSAL

23. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The amendments in the Bill will not affect the current binding effect of the SWRO. It has no sustainability, productivity, economic, environmental, financial, civil service, family and gender implications.

PUBLIC CONSULTATION

24. We have from time to time received queries and concerns from different sectors of the community over the Board's handling of disciplinary

and registration matters of RSWs who were convicted of serious offences, formulation process of the CoP and the Board's role in fostering the long-term sustainable development of the social work profession. There have also been calls for action to improve the Board's governance and review its functions, so that the Board can perform its statutory functions in a fair and impartial manner with due regard to public interest, so as to safeguard the interest of the clients of social work service and the community as a whole, and to maintain the credibility of the social work profession and promote its long-term development. We will arrange a briefing for the LegCo Panel on Welfare Services before introducing the Bill.

PUBLICITY

25. We will issue a press release before gazettal of the Bill. A spokesperson will be available to handle media and public enquiries.

BACKGROUND

26. The Board was established in 1998 under the SWRO. Currently, the SWRO stipulates that the Board must consist of 15 members who serve on a three-year term. Eight of the members must be RSWs elected by RSWs; six members must be appointed by the CE, of whom not less than three must be persons who are neither an RSW nor a public officer; and one member must be the DSW or his/her representative.

ENQUIRY

27. Any enquiry on this brief can be directed to Mr Tony YIP, Principal Assistant Secretary for Labour and Welfare (Welfare) 1, at 2810 3931.

Labour and Welfare Bureau
14 May 2024

Social Workers Registration (Amendment) Bill 2024

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Part IIIA

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A BILL

To

Amend the Social Workers Registration Ordinance to change the composition of the Social Workers Registration Board; to require a person who is holding or is to take up the office of a member of the Board to take an oath; to provide for the consequences of declining or neglecting to take the oath; to provide for the consequences of breaching the oath; to provide for the filling of a vacancy in the office of an elected member of the Board; to provide that any vacancy in the membership of the Board does not affect the power and proceedings of the Board; to revise certain requirements relating to the meetings of the Board; to provide for continuing professional development requirements for registered social workers; to amend the provisions relating to the dates on which a code of practice approved by the Board takes effect and ceases to have effect; to revise the procedures for the removal of the name of a registered social worker who has been convicted of certain offences from the register of registered social workers; to revise certain requirements relating to the disciplinary proceedings of the Board; to amend the provisions on the effective dates of the appointment (and its revocation) of a member of a disciplinary committee panel by the Board; and to provide for transitional and related matters.

Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Social Workers Registration (Amendment) Ordinance 2024.

- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
- (3) Sections 14 and 25(2) come into operation on a day to be appointed by the Secretary for Labour and Welfare by notice published in the Gazette.

2. Social Workers Registration Ordinance amended

The Social Workers Registration Ordinance (Cap. 505) is amended as set out in sections 3 to 26.

3. Section 2 amended (interpretation)

Section 2(1)—

Add in alphabetical order

“*Board Member Oath* (註冊局成員誓言) means an oath that the oath-taker will uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China;”.

4. Section 4 amended (constitution of Board)

- (1) Section 4(3)—

Repeal

“shall consist of 15”

Substitute

“is to consist of 27”.

- (2) Section 4(3)(a)—

Repeal

“shall be”

Substitute

“are”.

- (3) Section 4(3)—

Repeal paragraph (b)

Substitute

“(b) 17 are persons appointed by the Chief Executive by notice published in the Gazette of whom—

- (i) at least 5 are neither registered social workers nor public officers; and
- (ii) at least 5 are registered social workers (category 1);”.

- (4) After section 4(3)(b)—

Add

“(ba) 1 is a public officer appointed by the Chief Executive by notice published in the Gazette who is also a registered social worker (category 1); and”.

- (5) Section 4(3)(c)—

Repeal

“shall be”

Substitute

“is”.

- (6) Section 4(4), Chinese text—

Repeal

“該款規定”

Substitute

“第(3)(a)款規定”.

- (7) Section 4(4), Chinese text—

Repeal

“第(3)(a)款成為”

Substitute

“該款成為”。

(8) Section 4—

Repeal subsections (11) and (12).

5. Sections 4A and 4B added

After section 4—

Add**“4A. Requirement to take Board Member Oath**

- (1) This section applies to a person who—
 - (a) is to take up the office of a member of the Board; or
 - (b) held the office of a member of the Board immediately before the commencement date of the Social Workers Registration (Amendment) Ordinance 2024 (of 2024).
- (2) The person must, within the period specified by the Secretary, take a Board Member Oath by—
 - (a) signing and completing a written oath in the form prescribed in Schedule 3; and
 - (b) returning the signed and completed written oath, either in person or by hand, to the Secretary during ordinary business hours.
- (3) In this section—

ordinary business hours (通常辦公時間) means the hours between 9 a.m. and 6 p.m. on any working day;

working day (工作日) means any Monday, Tuesday, Wednesday, Thursday or Friday other than a general holiday.

4B. Consequences of declining or neglecting to take Board Member Oath

- (1) A person declines or neglects to take a Board Member Oath if—
 - (a) the Secretary does not receive a written oath signed, completed and returned by the person in accordance with section 4A(2) within the period specified under that section in respect of the person;
 - (b) the Secretary is satisfied that the person does not genuinely and truthfully intend to uphold the Basic Law and bear allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China; or
 - (c) the Secretary is satisfied that the person intentionally alters or distorts the wording of the written oath.
- (2) A person who declines or neglects to take a Board Member Oath—
 - (a) if the person falls within the description of section 4A(1)(a)—must not take up the office of a member of the Board; or
 - (b) if the person falls within the description of section 4A(1)(b)—must not continue to hold the office of a member of the Board.
- (3) The office of a member of the Board that the person would have taken up, or continued to hold, but for subsection (2) is to become vacant.
- (4) Despite section 5(1)(c), the person is, within 5 years after the date on which the period specified under section 4A(2) in respect of the person ends—

- (a) disqualified from being nominated as a candidate at an election of members of the Board, or from being elected as a member of the Board; and
- (b) disqualified from being appointed as a member of the Board.”.

6. Section 5 amended (tenure of office)

- (1) Section 5(1)(a)—

Repeal

“shall, subject to subsections (3), (4) and (5), serve”

Substitute

“is, subject to subsections (3) and (4) and section 5A(5), to serve”.

- (2) Section 5(2)—

Repeal

“Director)—”

Substitute

“Director, or a member appointed under section 4(3)(ba)—”.

- (3) Section 5(2)—

Repeal

“he” (wherever appearing)

Substitute

“the member”.

- (4) Section 5(2), English text—

Repeal

“shall again be”

Substitute

“is again”.

- (5) Section 5(2), English text—

Repeal

“shall apply”

Substitute

“applies”.

- (6) Section 5(3)—

Repeal

“Director)—”

Substitute

“Director, or a member appointed under section 4(3)(ba)—”.

- (7) Section 5(3)(a), English text—

Repeal

“his”

Substitute

“the member’s”.

- (8) Section 5(3)(b)(i)—

Repeal

“he”

Substitute

“the member”.

- (9) Section 5(3)(b)(ii), Chinese text—

Repeal

“他”

Substitute

“該成員”.

- (10) Section 5(3)(c)—
Repeal
 “his duties as a member”
Substitute
 “the duties of a member of the Board”.
- (11) Section 5(3)(e)—
Repeal
 “magistrate; or”
Substitute
 “magistrate;”.
- (12) Section 5(3)(f)—
Repeal
 “offence,”
Substitute
 “offence; or”.
- (13) After section 5(3)(f)—
Add
 “(g) has breached the Board Member Oath taken by the member,”.
- (14) Section 5(3)—
Repeal
 “his office as a member of the Board”
Substitute
 “the member’s office”.
- (15) Section 5(3), English text—
Repeal

- “shall notify”
Substitute
 “must notify”.
- (16) Section 5(3), English text—
Repeal
 “shall become”
Substitute
 “becomes”.
- (17) After section 5(3)—
Add
 “(3A) Despite subsection (1)(c), a person whose office as a member of the Board becomes vacant because of a declaration made in respect of the person under subsection (3) on the ground specified in subsection (3)(g) is, within 5 years after the date on which the declaration is made—
 (a) disqualified from being nominated as a candidate at an election of members of the Board, or from being elected as a member of the Board; and
 (b) disqualified from being appointed as a member of the Board.”.
- (18) Section 5—
Repeal subsection (5).
7. **Section 5A added**
 After section 5—
Add

“5A. Filling of vacancy in office of elected member of Board

- (1) This section applies if a vacancy in the office of an elected member of the Board arises because of—
 - (a) section 4B(3);
 - (b) section 5(1)(b)(i);
 - (c) section 5(3); or
 - (d) section 5(4).
- (2) Subject to subsection (3), the Board is to decide whether, and if so, when, it is reasonably practicable to hold an election to fill the vacancy.
- (3) An election under subsection (2) must not be held within 12 months preceding the date on which the term of the office would have ended had the vacancy not arisen (*specified date*).
- (4) An election under subsection (2) is to be held in accordance with the rules made under section 9(1)(b).
- (5) A person elected at an election under subsection (2) may only serve up to the specified date.”.

8. Section 6 amended (proceedings of Board)

- (1) Section 6(2), English text—

Repeal

“shall”

Substitute

“must”.

- (2) Section 6(2)—

Repeal

“8”

Substitute

“10”.

- (3) Section 6(3), English text—

Repeal

“shall”

Substitute

“must”.

- (4) Section 6(3)—

Repeal

“6”

Substitute

“10”.

9. Section 7 amended (functions of Board)

- (1) Section 7(1)—

Repeal

“Board shall”

Substitute

“functions of the Board are to”.

- (2) After section 7(1)(f)—

Add

“(fa) set continuing professional development requirements for registered social workers;”.

10. Section 9 amended (Board may make rules)

- Section 9(1)(b)—

Repeal

“under section 4(3)(a)”.

11. Section 10 amended (approval of codes of practice by Board)

(1) Section 10—

Repeal subsection (2)

Substitute

“(2) A code of practice approved under subsection (1) takes effect on the date on which the Secretary publishes a notice in the Gazette stating that the code of practice has been approved under that subsection.”.

(2) Section 10(5)—

Repeal

everything after “this section,”

Substitute

“the code of practice ceases to have effect on the date on which the Secretary publishes a notice in the Gazette stating that the approval has been withdrawn under that subsection.”.

12. Section 12 amended (delegations)

(1) Section 12(2), English text—

Repeal

“Board shall”

Substitute

“Board may”.

(2) Section 12(2)(a)—

Repeal

“section 8(1)(a), 9, 10, 19,”

Substitute

“section 5A(2), 8(1)(a), 9, 10, 19, 24A(1) or (4), 24B(1),”.

(3) Section 12(2)(b) and (c), English text—

Repeal

“which shall not be”

Substitute

“that are not”.

13. Section 14A added

Part II, after section 14—

Add

“14A. Power and proceedings of Board not affected by vacancy in membership

Any vacancy in the membership of the Board does not affect—

- (a) the power of the Board to transact business; or
- (b) the validity of the proceedings of the Board.”.

14. Section 20 amended (expiry of registration and renewal)

(1) Section 20(4)—

Repeal

everything after “satisfied”

Substitute

“that—

- (a) the applicant has ceased to meet any of the requirements for registration set out in section 17 (other than subsection (1)(a) of that section) that are applicable to the applicant; or
- (b) the applicant has failed to comply with the continuing professional development requirements

set by the Board under section 7(1)(fa) within a period specified by the Board.”.

(2) After section 20(4)—

Add

“(4A) If an application is rejected under subsection (4), the Board must notify the applicant of the rejection and the reasons for the rejection.”.

15. Part IIIA added

After Part III—

Add

“Part IIIA

**Removal of Names of Registered Social Workers
Convicted of Certain Offences from Register**

24A. Board’s direction to remove names of registered social workers convicted of certain offences from Register

- (1) Subject to section 24B, the Board may direct the Registrar to remove a registered social worker’s name from the Register if the social worker has been convicted in Hong Kong or elsewhere of an offence that—
 - (a) may bring the profession of social worker into disrepute; and
 - (b) is punishable with imprisonment (whether or not the social worker was sentenced to imprisonment).
- (2) A direction given under subsection (1) may be a direction to remove the registered social worker’s name from the Register—

(a) permanently; or

(b) for a period the Board thinks fit, which must not exceed 5 years.

(3) For the purposes of subsection (1), the Board may consider—

(a) any record of the case in which the conviction concerned was recorded; and

(b) any other relevant evidence that may show the nature and gravity of the offence of which the registered social worker concerned has been convicted.

(4) If the Board has notice that a registered social worker has been convicted of an offence referred to in section 17(4)(b)(i) or (ii), the Board must, as soon as practicable after having such notice, direct the Registrar to remove the social worker’s name from the Register permanently, unless the condition specified in subsection (5) is satisfied.

(5) The condition is that all the members for the time being of the Board resolve, after considering all the circumstances of the case, that the registered social worker’s name should not be removed from the Register.

(6) For subsections (1) and (4), the Board is not required to inquire whether the registered social worker concerned was properly convicted.

24B. Procedures for giving direction under section 24A(1)

- (1) If the Board intends to give a direction under section 24A(1) (*section 24A(1) direction*), the Board may direct the Registrar to serve a written notice on the registered social worker concerned stating—

- (a) the Board's intention;
 - (b) the Board's reasons for the intention; and
 - (c) the social worker's right to make written representation under subsection (3).
- (2) The notice must be served on the social worker—
- (a) by delivering it personally to the social worker; or
 - (b) by sending it by registered post to the social worker's registered address.
- (3) The social worker may make written representation to the Board, within 28 days after the date on which the notice is delivered personally or sent by registered post, as to why the section 24A(1) direction should not be given.
- (4) The Board may give the section 24A(1) direction if—
- (a) the social worker does not make the written representation within the period specified in subsection (3); or
 - (b) having considered the written representation made by the social worker under subsection (3), the Board still considers that the direction should be given.

24C. Registrar must serve notice of Board's direction

- (1) As soon as practicable after the Board has given a direction under section 24A(1) or (4), the Registrar must serve a written notice on the registered social worker concerned stating—
- (a) the Board's direction;
 - (b) the Board's reasons for the direction; and
 - (c) the date on which the direction is carried out in accordance with section 24E.
- (2) The notice must be served on the social worker—

- (a) by delivering it personally to the social worker; or
- (b) by sending it by registered post to the social worker's registered address.

24D. Registrar must publish Board's direction

- (1) If the Board has given a direction under section 24A(1) or (4), the Registrar—
- (a) must, as soon as practicable, publish the direction in at least one English and one Chinese language newspaper circulating generally in Hong Kong; and
 - (b) may publish the direction in any other publication or manner the Board thinks fit.
- (2) If the direction is varied on appeal, the Registrar—
- (a) must, as soon as practicable, publish the varied direction in the same manner as described in subsection (1)(a); and
 - (b) may publish the varied direction in any other publication or manner the Board thinks fit.
- (3) If a direction or a varied direction is published under subsection (1) or (2), the Registrar must publish with it sufficient particulars to acquaint the public with the nature of the matter to which it relates.
- (4) No action in damages for defamation may lie against any person as a result of publishing a direction or a varied direction and other particulars required or permitted under this section.

24E. Registrar must carry out Board's direction

- (1) The Registrar must carry out a direction given under section 24A(1) or (4) on the date on which it is published

under section 24D(1)(a), whether or not an appeal is made against the direction under section 33(1)(ab).

- (2) If the direction is varied on appeal, the Registrar must carry out the varied direction.
- (3) Section 22(6) applies if the name of a registered social worker is removed from the Register because of this section.”.

16. Section 25 amended (disciplinary offences)

- (1) Section 25(1), English text—

Repeal

“he”

Substitute

“the social worker”.

- (2) Section 25(1)(c), after “misrepresentation;”

Add

“or”.

- (3) Section 25(1)(d)—

Repeal the semicolon

Substitute a full stop.

- (4) Section 25(1)—

Repeal paragraphs (e) and (f).

- (5) Section 25(2)(a), after “respect;”

Add

“or”.

- (6) Section 25(2)(b)—

Repeal the semicolon

Substitute a comma.

- (7) Section 25(2)—

Repeal paragraph (c).

- (8) Section 25(2)—

Repeal

“he”

Substitute

“the person”.

- (9) Section 25(2), English text—

Repeal

“that person shall”

Substitute

“the person is”.

- (10) Section 25(2), English text—

Repeal

“be”.

- (11) Section 25(3), English text—

Repeal

“shall” (wherever appearing)

Substitute

“must”.

- (12) Section 25(3)—

Repeal

“2 members”

Substitute

“3 members”.

(13) Section 25(3)(a), before “the members”—

Add

“at least 2 of”.

(14) After section 25(3)(e)—

Add

“(ea) at least 2 of the members are satisfied that the circumstances based on which the complaint is made are, or are substantially similar to, the circumstances constituting an offence and in respect of the conviction of the offence—

- (i) a written notice of the Board’s intention to give a direction under section 24A(1) has been served under section 24B(1);
- (ii) the Board has given a direction under section 24A(4); or
- (iii) the Board is not required to give a direction under section 24A(4) because the condition specified in section 24A(5) is satisfied;”.

(15) Section 25(3)(f), (g) and (h), before “the members”—

Add

“at least 2 of”.

17. Section 26 amended (disciplinary committee panel)

(1) Section 26(3)—

Repeal

everything after “subsection (1)”

Substitute

“takes effect on the date on which the Secretary publishes a notice in the Gazette stating that the appointment has been made under that subsection.”.

(2) After section 26(3)—

Add

“(4) A revocation of an appointment under subsection (2) takes effect on the date on which the Secretary publishes a notice in the Gazette stating that the revocation has been made under that subsection.”.

18. Section 27 amended (decision of disciplinary committee and Board on complaint, etc.)

(1) Section 27(3)(a), Chinese text—

Repeal

“最少”

Substitute

“至少”.

(2) Section 27(5), Chinese text, after “有人就某”—

Add

“註冊”.

(3) Section 27(10), after “disciplinary offence”—

Add

“under section 25(1)(b)”.

(4) Section 27(10)(a)—

Repeal

“under section 25(1)(b), (e) or (f), the disciplinary committee shall not be”

Substitute

“the disciplinary committee is not”.

- (5) Section 27(10)(b)—

Repeal

“under section 25(1)(b) or (e).”.

19. Section 30 amended (disciplinary orders)

- (1) Section 30(1)(a) and (b), Chinese text—

Repeal

“該冊”

Substitute

“註冊”.

- (2) Section 30—

Repeal subsection (2).

20. Section 32 amended (publication of disciplinary orders)

- (1) Section 32, Chinese text, heading—

Repeal

“發表”

Substitute

“發布”.

- (2) Section 32(1)(a), Chinese text—

Repeal

everything after “該命令，”

Substitute

“於香港廣泛流通的中文報章及英文報章(各至少一份)發布，而若所作出的是其他紀律制裁命令，則註冊局可如此發布該命令；及”.

- (3) Section 32(1)(b) and (2), Chinese text—

Repeal

“發表” (wherever appearing)

Substitute

“發布”.

- (4) Section 32(3), Chinese text—

Repeal

everything after “不得” and before “提出”

Substitute

“因本條規定發布(或容許發布)的紀律制裁命令及其他詳情，而以誹謗為理由向任何其他人士”.

21. Section 33 amended (appeal to Court of Appeal)

- (1) Section 33(1)(a)—

Repeal

“him under section 19(1), 20(4) or 27(8); or”

Substitute

“the person under section 19(1), 20(4) or 27(8);”.

- (2) After section 33(1)(a)—

Add

“(ab) any direction given in respect of the person under section 24A(1) or (4); or”.

- (3) Section 33(1)(b)—

Repeal

“him”

Substitute

“the person”.

- (4) Section 33(1), Chinese text, after “以下決定”—

- Add**
“、指示”。
- (5) Section 33(2)—
Repeal
“decision”
Substitute
“decision, direction”。
- (6) Section 33(7), English text—
Repeal
“shall not have”
Substitute
“has no”。
- (7) Section 33(7)(a)—
Repeal
“27(8); or”
Substitute
“27(8);”。
- (8) After section 33(7)(a)—
Add
“(ab) a direction given under section 24A(1) or (4); or”。
- (9) After section 33(7)(i)—
Add
“(ia) in the case of paragraph (ab), the publication of the direction under section 24D(1)(a); or”。
- (10) Section 33(7), Chinese text, after “以下決定”—
Add

- “、指示”。
- 22. Section 38 amended (fees)**
- (1) Section 38(3), Chinese text—
Repeal
“在普遍行銷於香港的中文及英文報章最少各一份發表”
Substitute
“於香港廣泛流通的中文報章及英文報章(各至少一份)發布”。
- (2) After section 38(6)(f)—
Add
“(fa) the restoration of a name to the Register following the carrying out of a direction under section 24A(1);”。
- (3) Section 38(6)(g), Chinese text—
Repeal
“登記”
Substitute
“紀錄”。
- (4) Section 38(7), after “notice”—
Add
“published”。
- 23. Section 39 amended (amendment of Schedules)**
- (1) Section 39, heading, after “Schedules”—
Add
“1 and 2”。
- (2) Section 39(1) and (2), after “notice”—
Add

“published”.

24. Section 40 added

After section 39—

Add

“40. Savings and transitional provisions relating to Social Workers Registration (Amendment) Ordinance 2024

Schedule 4 provides for the savings and transitional provisions relating to the Social Workers Registration (Amendment) Ordinance 2024 (of 2024).”.

25. Schedule 1 amended (provisions with respect to Board and committees and their members, etc.)

(1) Schedule 1—

Repeal

“[ss. 4(8) & (11),”

Substitute

“[ss. 4(8),”.

(2) Schedule 1—

Repeal

“12(2)(c), 20(4) & 39(1)]”

Substitute

“12(2)(c) & 39(1)]”.

(3) Schedule 1—

Repeal section 1.

(4) Schedule 1, cross-heading before section 10—

Repeal

“Finances, etc.”

Substitute

“Resources”.

(5) Schedule 1, English text, section 10(1)—

Repeal

“shall”.

(6) Schedule 1, section 10(1)—

Repeal paragraph (a).

(7) Schedule 1, section 10(1)(b)—

Repeal

“other”.

(8) Schedule 1, section 10—

Repeal subsection (2).

(9) Schedule 1—

Repeal sections 11 and 12.

(10) Schedule 1—

Repeal section 13

Substitute

“13. Provision not subject to section 12(1)

Section 8 of this Schedule is not subject to section 12(1).”.

26. Schedules 3 and 4 added

After Schedule 2—

Add

“Schedule 3

[s. 4A]

Written Oath Prescribed for Purposes of Section 4A(2)(a)

I, *..... (name of oath-taker), of *..... (address of oath-taker) **affirm/swear that—

- (a) I will uphold the Basic Law; and
- (b) I will bear allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.

**Affirmed/sworn this *..... day of *.....

(Signature)

This oath was **affirmed/sworn and signed before me, a **Commissioner for Oaths/Justice of the Peace/Solicitor with a practising certificate.

(Signature)

- * Complete as appropriate.
- ** Delete whichever is inapplicable.

Schedule 4

[s. 40]

Savings and Transitional Provisions relating to Social Workers Registration (Amendment) Ordinance 2024

1. Interpretation

In this Schedule—

Amending Ordinance (《修訂條例》) means the Social Workers Registration (Amendment) Ordinance 2024 (of 2024);

material date (關鍵日期) means the date on which this Schedule comes into operation;

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the material date.

2. Chairperson and Deputy Chairperson of Board and transaction of business of Board

- (1) At the beginning of the material date—
 - (a) the person who held the office of the Chairperson of the Board immediately before the material date ceases to hold that office;
 - (b) the person who held the office of the Deputy Chairperson of the Board immediately before the material date ceases to hold that office; and
 - (c) the offices of the Chairperson and Deputy Chairperson of the Board become vacant.
- (2) Beginning on the material date, despite any other provisions of this Ordinance, the Board may not transact any business until the meeting referred to in subsection (3) is held, except for the purpose of convening the meeting.
- (3) A meeting of the Board for the purposes of subsection (4) must be held within 21 days after the date on which the Chief Executive makes the first appointment under section 4(3)(b) on or after the material date.
- (4) At the meeting, the members of the Board must, before transacting any other business, elect from among their number—
 - (a) a Chairperson; and
 - (b) a Deputy Chairperson.
- (5) The Registrar must—
 - (a) appoint the time (which must be within 14 days after the date on which the appointment referred to in subsection (3) is made) and place for the meeting; and

- (b) conduct the election referred to in subsection (4) at the meeting.

- (6) If the Registrar fails to act in accordance with subsection (5), to ensure that subsection (3) is complied with, a member of the Board may act in the place of the Registrar if the member is authorized to do so by at least 10 members of the Board (including the member himself or herself).
- (7) A person elected under subsection (4) is taken to be elected under section 4(5).

3. Pre-existing complaint concerning disciplinary offence pending decision of referral

- (1) Subsection (2) applies if, before the material date—
 - (a) a form in which a complaint concerning a disciplinary offence is made has been submitted to 2 members of the Board (*pre-existing members*) under section 25(3) of the pre-amended Ordinance; and
 - (b) the pre-existing members have not decided whether to refer the complaint to the Board under that section.
- (2) On or after the material date—
 - (a) the Registrar must, as soon as practicable, in accordance with the rules made by the Board under section 9, submit the form referred to in subsection (1)(a) to 1 additional member of the Board (*additional member*) appointed by the Board for the purposes of section 25(3); and
 - (b) the additional member and the pre-existing members together must act under section 25(3).

4. Pre-existing complaint concerning disciplinary offence referred under section 25(3) of pre-amended Ordinance

- (1) This section applies if, before the material date—
- (a) a registered social worker—
 - (i) has been convicted in Hong Kong or elsewhere of an offence that—
 - (A) may bring the profession of social worker into disrepute; and
 - (B) is punishable with imprisonment (whether or not the social worker was sentenced to imprisonment); or
 - (ii) has been convicted of an offence referred to in section 17(4)(b)(i) or (ii);
 - (b) a complaint concerning a disciplinary offence under section 25(1)(e) or (f) of the pre-amended Ordinance has been made in relation to the conviction of an offence mentioned in paragraph (a)(i) or (ii) (*pre-existing complaint*), irrespective of whether the pre-existing complaint also concerns any disciplinary offence under section 25(1)(a), (b), (c) or (d); and
 - (c) the pre-existing complaint has been referred to the Board under section 25(3) of the pre-amended Ordinance.
- (2) If, before the material date, the Board has not appointed a disciplinary committee in accordance with section 27(1) in relation to the pre-existing complaint—
- (a) if the pre-existing complaint only concerns a disciplinary offence under section 25(1)(e) or (f) of the pre-amended Ordinance, on or after the material date—

- (i) despite section 27(1), the Board must not appoint a disciplinary committee in relation to the pre-existing complaint; and
 - (ii) the pre-existing complaint is not to be further dealt with; or
- (b) otherwise, on or after the material date—
- (i) the Board must appoint a disciplinary committee in accordance with section 27(1) in relation to the pre-existing complaint; and
 - (ii) the disciplinary committee appointed under subparagraph (i) may only inquire into the pre-existing complaint in so far as it concerns a disciplinary offence under section 25(1)(a), (b), (c) or (d).
- (3) To avoid doubt, subsection (2) does not affect the application of Part IIIA in relation to the conviction of an offence mentioned in subsection (1)(a)(i) or (ii) in relation to which the pre-existing complaint has been made.
- (4) If, before the material date, the Board has appointed a disciplinary committee in accordance with section 27(1) in relation to the pre-existing complaint, on or after the material date—
- (a) Part IV of the pre-amended Ordinance continues to apply in relation to the pre-existing complaint and the proceedings arising from that complaint as if the Amending Ordinance had not been enacted; and
 - (b) Part IIIA does not apply in relation to the conviction of an offence mentioned in subsection (1)(a)(i) or (ii) in relation to which the pre-existing complaint has been made.”

Explanatory Memorandum

This Bill amends the Social Workers Registration Ordinance (Cap. 505) (*Ordinance*) for the purposes set out in the long title.

2. Clause 1 sets out the short title and provides for commencement.

Composition of Social Workers Registration Board

3. Clause 4(1), (3) and (4) amends section 4(3) of the Ordinance to increase the number of members of the Social Workers Registration Board (*Board*) from 15 to 27 and to change the composition of the Board.
4. Clause 6(2) and (6) respectively amends section 5(2) and (3) of the Ordinance to provide that certain requirements on the tenure of office do not apply to certain members of the Board.

Oath-taking Requirement

5. Clause 5 adds a new section 4A to the Ordinance to require a person who is holding or is to take up the office of a member of the Board to take a Board Member Oath (the definition of which is added to section 2(1) of the Ordinance by clause 3).
6. A Board Member Oath is to be taken by signing, completing and returning a written oath in the form prescribed in the new Schedule 3 added by clause 26 to the Ordinance.
7. Clause 5 also adds a new section 4B to the Ordinance to provide for the consequences of declining or neglecting to take a Board Member Oath.
8. Clause 6(13) and (17) respectively amends section 5(3) of the Ordinance and adds a new section 5(3A) to the Ordinance to provide for the consequences of breaching a Board Member Oath.

Vacancy in Membership of Board

9. Clause 7 adds a new section 5A to the Ordinance to provide for the filling of a vacancy in the office of an elected member of the Board.
10. Clause 13 adds a new section 14A to the Ordinance to provide that any vacancy in the membership of the Board does not affect the power and proceedings of the Board.

Meetings of Board

11. Clause 8(2) amends section 6(2) of the Ordinance so that the minimum number of members of the Board required to give a written requisition to the Chairperson of the Board for convening a meeting of the Board is increased from 8 to 10.
12. Clause 8(4) amends section 6(3) of the Ordinance to increase the quorum of a meeting of the Board from 6 members to 10 members.

Continuing Professional Development Requirements

13. Clause 9(2) amends section 7(1) of the Ordinance to add a new function of the Board to set continuing professional development requirements for registered social workers.
14. Clause 14(1) amends section 20(4) of the Ordinance to provide that the Board may reject an application for renewal of registration by a registered social worker if the social worker has failed to comply with continuing professional development requirements.

Dates on which Codes of Practice Take Effect and Cease to Have Effect

15. Clause 11(1) amends section 10(2) of the Ordinance to stipulate that a code of practice approved by the Board takes effect on the date on which the Secretary for Labour and Welfare (*Secretary*) publishes a notice in the Gazette stating that the code of practice has been so approved.

16. Clause 11(2) amends section 10(5) of the Ordinance to stipulate that a code of practice the approval of which is withdrawn by the Board ceases to have effect on the date on which the Secretary publishes a notice in the Gazette stating that the approval has been so withdrawn.

Board's Handling Procedures relating to Registered Social Workers Convicted of Certain Offences

17. Clause 15 adds a new Part IIIA (new sections 24A to 24E) to the Ordinance that relates to the direction of the Board (*Board's direction*) to remove the name of a registered social worker who has been convicted of certain offences from the register of registered social workers (*Register*). More specifically—
- (a) the new section 24A(1) empowers the Board to direct the removal of a registered social worker's name from the Register if the social worker has been convicted in Hong Kong or elsewhere of an offence that—
 - (i) may bring the profession of social worker into disrepute; and
 - (ii) is punishable with imprisonment (whether or not the social worker was sentenced to imprisonment);
 - (b) the new section 24A(4) requires the Board to direct the removal of a registered social worker's name from the Register if the social worker has been convicted of an offence referred to in section 17(4)(b)(i) or (ii) of the Ordinance, unless all the members of the Board resolve otherwise;
 - (c) the new section 24B provides for the right of the registered social worker concerned to make written representation if the Board intends to exercise the power under the new section 24A(1);
 - (d) the new section 24C provides for the service of notice of the Board's direction;

- (e) the new section 24D provides for the publication of the Board's direction; and
 - (f) the new section 24E provides for the carrying out of the Board's direction by the Registrar.
18. Clause 12(2) amends section 12(2)(a) of the Ordinance to provide that certain functions and powers of the Board under the new Part IIIA are non-delegable.
19. Clauses 16(4), (7) and (14), 18(3), (4) and (5) and 19(2) amend certain provisions in Part IV of the Ordinance so that a conviction described in paragraph 17(a) or (b) is no longer a disciplinary offence under that Part, and so as to make related amendments.
20. Clause 21(2), (4), (5), (8), (9) and (10) amends section 33 of the Ordinance so that a person who is aggrieved by the Board's direction may appeal to the Court of Appeal.
21. Clause 22(2) amends section 38(6) of the Ordinance to provide that the Board may determine the fee payable for the restoration of a name to the Register following the carrying out of a direction under the new section 24A(1).

Disciplinary Proceedings of Board

22. Under section 25(3) of the Ordinance, 2 members of the Board are required to decide whether to refer a complaint to the Board for the carrying out of the disciplinary proceedings under Part IV of the Ordinance. Clause 16(12), (13), (14) and (15) amends that section to increase the number of such members from 2 to 3 and to provide that certain decisions can be made if satisfied by at least 2 of those 3 members.

Effective Dates of Appointment (and its Revocation) of Members of Board's Disciplinary Committee Panel

23. Clause 17(1) amends section 26(3) of the Ordinance to stipulate that the Board's appointment of a member of a disciplinary committee panel takes effect on the date on which the Secretary publishes a notice in the Gazette stating that the appointment has been made.
24. Clause 17(2) adds a new section 26(4) to the Ordinance to stipulate that the Board's revocation of an appointment of a member of a disciplinary committee panel takes effect on the date on which the Secretary publishes a notice in the Gazette stating that the revocation has been made.

Savings and Transitional Provisions

25. Clauses 24 and 26 respectively add a new section 40 and a new Schedule 4 to the Ordinance to stipulate savings and transitional provisions. More specifically—
 - (a) section 2 of the new Schedule 4 provides that—
 - (i) the offices of the Chairperson and Deputy Chairperson of the Board become vacant at the beginning of the date on which the new Schedule 4 comes into operation (*material date*); and
 - (ii) the Board must not transact any business beginning on the material date until a new Chairperson and a new Deputy Chairperson are elected;
 - (b) section 3 of the new Schedule 4 deals with the scenario where a complaint concerning a disciplinary offence has been submitted to 2 members of the Board under section 25(3) of the Ordinance as in force immediately before the material date but those members have not decided whether to refer it to the Board before the material date; and

- (c) section 4 of the new Schedule 4 deals with complaints concerning a disciplinary offence under section 25(1)(e) or (f) of the Ordinance as in force immediately before the material date that have been referred to the Board before the material date.

Miscellaneous Amendments

26. The Bill also repeals certain provisions in the Ordinance that have already expired, and makes certain textual amendments so that plain language and gender-neutral drafting approaches are adopted.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—

Board (註冊局) means the Social Workers Registration Board established under section 4(1);

Chairperson (主席) means the Chairperson of the Board elected under section 4(5);

code of practice (工作守則) includes—

- (a) a standard;
- (b) a specification; and
- (c) any other documentary form of practical guidance;

committee (委員會) means a committee established under section 8(1)(a);

degree (學位) and **diploma** (文憑) include any fellowship, membership, licence, authority to practise, letter testimonial, certificate of other status or document granted by any educational institution or government, whether in Hong Kong or elsewhere;

Deputy Chairperson (副主席) means the Deputy Chairperson of the Board elected under section 4(5);

Director (署長) means the Director of Social Welfare and includes a representative of the Director;

disciplinary committee (紀律委員會) means a disciplinary committee appointed under section 27(1);

disciplinary offence (違紀行為) means an act or omission set out in section 25(1);

disciplinary order (紀律制裁命令) means an order under section 30(1);

panel (備選委員小組) means the disciplinary committee panel appointed under section 26(1);

recognized (認可), in relation to a degree or diploma in social work, means a degree or diploma, as the case may be, recognized under section 17(1)(a);

Register (註冊紀錄冊) means the register established under section 7(1)(a);

registered (註冊) means registered under this Ordinance;

registered social worker (註冊社會工作者) means a person whose name is currently entered in the Register;

registered social worker (category 1) (註冊社會工作者(第1類)) means a registered social worker whose name is entered in part 1 of the Register;

registered social worker (category 2) (註冊社會工作者(第2類)) means a registered social worker whose name is entered in part 2 of the Register;

Registrar (註冊主任) means the Registrar appointed under section 15(1);

relevant date (有關日期) means the date on which the first notice under section 4(4) is published in the Gazette;

Secretary (局長) means the Secretary for Labour and Welfare; (*Replaced L.N. 106 of 2002. Amended L.N. 130 of 2007*)

social work post (社會工作職位) means a post of employment in social work where the holder of the post, in order to discharge the duties of the post, requires knowledge and skills that may be obtained by acquiring a recognized degree or diploma in social work;

specified (指明), in relation to a form, means specified under section 37.

- (2) Any reference to social worker in any other Ordinance shall be construed to mean a registered social worker.
- (3) For the purposes of sections 31(2) and 32(1), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances—
 - (a) when the appeal to the Court of Appeal is withdrawn or abandoned;
 - (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;
 - (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal—
 - (i) when the application is withdrawn or abandoned;
 - (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or

- (iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or
- (d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal—
 - (i) when the application is withdrawn, abandoned or refused; or
 - (ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of. (*Added 10 of 2005 s. 110*)
- (4) In subsection (3)—

application for leave to appeal (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

specified period (指明限期)—

- (a) in the case of an application for leave to appeal made to the Court of Appeal, means—
 - (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or
 - (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or
- (b) in the case of an application for leave to appeal made to the Court of Final Appeal, means—
 - (i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is required to be filed; or
 - (ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended. (*Added 10 of 2005 s. 110*)

4. Constitution of Board

- (1) There is hereby established a body corporate to be known as the “Social Workers Registration Board”. (*Amended E.R. 1 of 2019*)
- (2) The Board shall have perpetual succession and a common seal and shall be capable of suing and being sued.
- (3) The Board shall consist of 15 members of whom—
 - (a) subject to subsection (4), 8 shall be registered social workers (category 1) elected—
 - (i) by registered social workers; and
 - (ii) in accordance with rules made under section 9(1)(b);
 - (b) 6 shall be persons appointed by the Chief Executive by notice in the Gazette of whom not less than 3 shall be persons who are neither a registered social worker nor a public officer; and (*Amended 37 of 2000 s. 3*)
 - (c) 1 shall be the Director.
- (4) A registered social worker (category 1) shall not be a member of the Board under subsection (3)(a) until the date on which the Secretary publishes a notice in the Gazette stating that the social worker has been duly elected as provided under that subsection.
- (5) The members of the Board shall elect from among their number—
 - (a) a Chairperson; and
 - (b) a Deputy Chairperson.
- (6) The Deputy Chairperson shall act as Chairperson if the Chairperson is absent from Hong Kong or is, for any other reason, unable to act as Chairperson.
- (7) If for any period both the Chairperson and Deputy Chairperson are absent from Hong Kong or are, for any other reason, unable to perform the functions of their respective offices the members of the Board may elect from among their number a person to act as Chairperson during that period.
- (8) The relevant provisions of Schedule 1 shall have effect with respect to the Board and its members.
- (9) The Board shall not be regarded as a servant or agent of the Government or as enjoying any status, immunity or privilege of the Government.

- (10) Part VII of the Interpretation and General Clauses Ordinance (Cap. 1) shall apply to the Board and appointments to the Board except in so far as that Part is inconsistent with the provisions of this Ordinance.
- (11) Where there is any conflict or inconsistency between a provision of Schedule 1 and any other provision of this Ordinance, then that first-mentioned provision shall, to the extent of that conflict or inconsistency, as the case may be, prevail over that other provision.
- (12) Subsection (11) shall expire on the relevant date.

5. Tenure of office

- (1) Elected or appointed members of the Board—
 - (a) shall, subject to subsections (3), (4) and (5), serve for 3 years or, in the case of an appointed member, such lesser period as may be specified in the terms of appointment;
 - (b) may resign by giving notice in writing to—
 - (i) in the case of an elected member, the Board;
 - (ii) in the case of an appointed member, the Chief Executive; (*Amended 37 of 2000 s. 3*)
 - (c) subject to subsection (2), may be re-elected or reappointed.
- (2) A member of the Board (other than the Director)—
 - (a) who has been a member continuously for 9 years; or
 - (b) whose period of service as a member exceeds 9 years in any 11 year period,may not again be a member until a period of 2 years since he last served has elapsed when he shall again be eligible to be a member as if he had not previously been a member, and this subsection shall apply again accordingly.
- (3) If the Chief Executive is satisfied that a member of the Board (other than the Director)— (*Amended 37 of 2000 s. 3*)
 - (a) has become bankrupt or has entered into a composition or scheme of arrangement with his creditors within the meaning of the Bankruptcy Ordinance (Cap. 6);
 - (b) has been absent from 3 consecutive meetings of the Board—
 - (i) of which he has had notice to attend; and
 - (ii) without the permission of the Board;
 - (c) has become so incapacitated by physical or mental illness as to be unable to carry out his duties as a member;

- (d) has ceased to be ordinarily resident in Hong Kong;
- (e) has been sentenced to imprisonment, whether suspended or not, by any court or magistrate; or
- (f) has been found guilty of a disciplinary offence,

the Chief Executive may declare his office as a member of the Board to be vacant, and shall notify the fact in such manner as the Chief Executive thinks fit; and upon such declaration the office shall become vacant. (*Amended 37 of 2000 s. 3*)

- (4) Where an elected member of the Board ceases, for whatever reason, to be a registered social worker (category 1), the Secretary shall publish a notice in the Gazette stating that his office as a member is vacant (and upon such publication the office shall be vacant).
- (5) Upon the expiry of the term of office of any elected member of the Board otherwise than by effluxion of time, a person, if any, filling the position thus vacated shall be elected under section 4(3)(a) for the balance of the period for which that elected member was due to serve.

6. Proceedings of Board

- (1) The Chairperson may appoint the time and place for the Board to meet.
- (2) The Chairperson shall, on the written requisition of not less than 8 other members of the Board, give notice of a meeting of the Board to be held not sooner than 7 days but within 28 days from the receipt of the requisition and appoint the time and place for that purpose.
- (3) The Board shall not transact business at a meeting other than to adjourn unless there is a quorum of 6 members of the Board present.

7. Functions of Board

- (1) The Board shall—
 - (a) establish and maintain a register of registered social workers;
 - (b) set and review the qualification standards for registration as a registered social worker and related registration matters;
 - (c) subject to subsection (2), assess qualifications to ascertain whether they should be set under paragraph (b);
 - (d) publish from time to time and make available for public inspection—

- (i) the qualification standards set under paragraph (b);
 - (ii) the qualifications, not being qualification standards set under paragraph (b), in respect of which the Board has performed its function under paragraph (c);
 - (e) examine and verify the qualifications of persons who apply for registration as registered social workers;
 - (f) receive, examine, accept or reject applications for registration and renewal of registration as a registered social worker;
 - (g) deal with disciplinary offences in accordance with this Ordinance;
 - (h) keep proper records of its proceedings and accounts; and
 - (i) perform such other functions as are imposed on it under this Ordinance.
- (2) Subsection (1)(c) shall not operate to require the Board to assess all types of qualifications to ascertain whether they should be set under subsection (1)(b), and whether or not any qualifications are those of a person who has applied for registration as a registered social worker.

9. Board may make rules

- (1) The Board may make such rules, not inconsistent with this Ordinance, as are necessary for, or incidental or conducive to, the better performance of its functions or exercise of its powers and in particular but without prejudice to the generality of the foregoing, may make rules in respect of—
- (a) the conduct of meetings of the Board or of any committee (including a disciplinary committee);
 - (b) the election of members of the Board under section 4(3) (a);
 - (c) the steps to be taken by the Registrar where the Board accepts or rejects an application for registration or renewal of registration;
 - (d) the conduct and discipline of registered social workers;
 - (e) the reimbursement of reasonable expenses incurred by persons attending to the business of the Board;
 - (f) the conduct of inquiries by a disciplinary committee and for other matters relating to the investigation of an alleged disciplinary offence;
 - (g) the election of the Chairperson and Deputy Chairperson under section 4(5);

- (h) the election of a person to act as Chairperson under section 4(7).
- (2) For the avoidance of doubt, it is hereby declared that rules made under subsection (1) are not subsidiary legislation.

10. Approval of codes of practice by Board

- (1) For the purpose of providing practical guidance in respect of the professional conduct of registered social workers (including ethical matters relating to such conduct), the Board may—
 - (a) approve and issue such codes of practice (whether prepared by it or not) as in its opinion are suitable for that purpose; and
 - (b) approve such codes of practice issued or proposed to be issued otherwise than by it as in its opinion are suitable for that purpose.
- (2) Where a code of practice is approved under subsection (1), the Board shall, by notice in the Gazette, identify the code concerned and specify the date on which its approval is to take effect.
- (3) The Board may—
 - (a) from time to time revise the whole or any part of any code of practice prepared by it under this section; and
 - (b) approve any revision or proposed revision of the whole or any part of any code of practice for the time being approved under this section,and the provisions of subsection (2) shall, with the necessary modifications, apply in relation to the approval of any revision under this subsection as they apply in relation to the approval of a code of practice under subsection (1).
- (4) The Board may at any time withdraw its approval from any code of practice approved under this section.
- (5) Where under subsection (4) the Board withdraws its approval from a code of practice approved under this section, it shall, by notice in the Gazette, identify the code concerned and specify the date on which its approval of it is to cease to have effect.
- (6) References in this Ordinance to an approved code of practice are references to that code as it has effect for the time being by virtue of any revision of the whole or any part of it approved under this section.

- (7) The power of the Board under subsection (1)(b) to approve a code of practice issued or proposed to be issued otherwise than by it shall include power to approve a part of such a code and, accordingly, in this Ordinance *code of practice* (工作守則) may be read as including a part of such a code.

12. Delegations

- (1) Subject to subsection (2), the Board may, with or without restrictions as it thinks fit, delegate in writing any of its functions or powers to—
- (a) any member of the Board;
 - (b) any committee (including a disciplinary committee);
 - (c) the Registrar;
 - (d) any employee of the Board.
- (2) The Board shall not delegate any of its functions or powers under—
- (a) subsection (1) or section 8(1)(a), 9, 10, 19, 25(3) or (4), 26(1) or (2), 27(1), (8) or (9), 30 or 38;
 - (b) any provisions of any rules made under section 9(1) which are specified in the rules as provisions which shall not be subject to subsection (1);
 - (c) any provisions of Schedule 1 which are specified in that Schedule as provisions which shall not be subject to subsection (1).
- (3) A delegate of the Board—
- (a) shall perform the delegated functions and may exercise the delegated powers as if the delegate were the Board; and
 - (b) shall be presumed to be acting in accordance with the relevant delegation in the absence of evidence to the contrary.

20. Expiry of registration and renewal

- (1) The entry in the Register of a person as a registered social worker—
- (a) shall remain in force for 12 months from the date when he was registered;
 - (b) may be renewed annually by application of the person so registered.
- (2) A registered social worker shall apply for renewal of registration as a registered social worker—

- (a) to the Registrar;
 - (b) in the specified form; and
 - (c) not earlier than 3 months and not later than 28 days prior to the expiry of the current registration.
- (3) If a registered social worker does not apply for renewal of registration before the expiry of his current registration—
- (a) the Registrar shall, on the expiry of the current registration, note in the Register that registration has not been renewed; and
 - (b) the person shall be deemed not to be currently on the Register from the date of expiry of his registration.
- (4) The Board may reject an application for renewal of registration if it is satisfied that the applicant does not continue to comply with the requirements for registration set out in section 17 (except section 17(1)(a), including that section as modified by the provisions of Schedule 1 at any time before the relevant date) and, in such case, the Board shall notify the applicant of the rejection and the reasons therefor.
- (5) Where a registered social worker fails to renew his registration within time, the Board may extend time for renewal of registration if the registered social worker makes an application to the Board therefor.
- (6) If the registration of a registered social worker has expired, the Board may require him to reapply for registration instead of renewing his registration.

25. Disciplinary offences

- (1) A registered social worker commits a disciplinary offence if he —
- (a) commits misconduct or neglect in any professional respect;
 - (b) has been convicted of an offence under this Ordinance;
 - (c) has obtained registration by fraud or misrepresentation;
 - (d) without reasonable excuse, refuses or fails to attend before a disciplinary committee when summoned either as a witness or as a person in respect of whom the disciplinary committee is meeting;
 - (e) has been convicted in Hong Kong or elsewhere of any offence which—
 - (i) may bring the profession of social worker into disrepute; and

- (ii) is punishable with imprisonment (and whether or not the person was sentenced to imprisonment); or
 - (f) has been convicted of an offence referred to in section 17(4)(b)(i) or (ii).
- (2) Subject to subsection (5), if a person who has been—
 - (a) guilty of misconduct or neglect in any professional respect;
 - (b) convicted of an offence under this Ordinance;
 - (c) convicted in Hong Kong or elsewhere of any offence which—
 - (i) may bring the profession of social worker into disrepute; and
 - (ii) is punishable with imprisonment (and whether or not the person was sentenced to imprisonment),
 discloses to the Board such misconduct, neglect or conviction when he applies for registration or renewal of registration and the Board subsequently accepts the person for registration or renewal of registration, that person shall not, for the purposes of registration or renewal of registration, be considered as having committed a disciplinary offence in respect of the disclosed misconduct, neglect or conviction.
- (3) Any complaint concerning any disciplinary offence shall be made in the specified form to the Registrar who shall, in accordance with rules made by the Board under section 9, submit the form to 2 members of the Board appointed by the Board for the purpose, and the members, in accordance with such rules, shall refer the complaint to the Board unless—
 - (a) the members are satisfied that—
 - (i) the complainant has had actual knowledge of the disciplinary offence complained of for more than 2 years immediately preceding the date on which the Registrar received the complaint; and
 - (ii) there are no special circumstances which explain the delay in making the complaint;
 - (b) the complaint is made anonymously;
 - (c) the complainant cannot be identified or traced;
 - (d) the social worker the subject of the complaint has ceased to be a registered social worker;

- (e) the complaint, or a complaint of a substantially similar nature, has previously been inquired into by a disciplinary committee and the Board decided that the disciplinary offence complained of was not committed;
 - (f) the members are satisfied that the disciplinary offence complained of is trivial;
 - (g) the members are satisfied that the complaint is frivolous or vexatious or is not made in good faith; or
 - (h) the members are satisfied for any other reason that referring the complaint to the Board is unnecessary.
- (4) Where a complaint has been referred to the Board under subsection (3), the Board shall, before reaching a decision in relation to the complaint or making a disciplinary order, appoint a disciplinary committee to inquire into the complaint, to advise it whether the disciplinary offence complained of has been committed and, if so, to recommend an appropriate disciplinary order.
- (5) Subsection (2) shall not apply to a person who has made a disclosure referred to in that subsection to the Board before the relevant date but if, on or after that date, the Board accepts the person for registration or renewal of registration, that subsection shall apply to that person in respect of the misconduct, neglect or conviction the subject of that disclosure.
- (6) For the avoidance of doubt, it is hereby declared that neither subsection (2) nor subsection (5) shall prejudice the operation of section 17(5).

26. Disciplinary committee panel

- (1) The Board shall appoint persons (not being members of the Board) to be members of a disciplinary committee panel in accordance with the following numbers and categories—
- (a) not less than 12 registered social workers (category 1) who each hold a recognized degree in social work;
 - (b) not less than 12 registered social workers (category 1) who each hold a recognized diploma in social work; and
 - (c) not less than 10 persons who are not registered social workers.
- (2) A member of the panel may resign at any time by notice in writing delivered to the Board and the Board may at any time and for any reason revoke the appointment of a member of the panel.

- (3) An appointment under subsection (1) shall be notified in the Gazette.

27. Decision of disciplinary committee and Board on complaint, etc.

- (1) The Board shall, not later than 30 days after a complaint is referred to it under section 25(3), appoint the disciplinary committee required by section 25(4) in relation to the complaint.
- (2) The disciplinary committee shall consist of 5 members of the panel of whom—
 - (a) not less than 3 and not more than 4 shall be registered social workers;
 - (b) if the registered social worker against whom the complaint concerned is made is—
 - (i) a public officer, 1 shall be a registered social worker who is a public officer and who has, in the opinion of the Board, professional experience as a social worker comparable to that of the registered social worker against whom the complaint is made;
 - (ii) not a public officer, 1 shall be a registered social worker who is not a public officer and who has, in the opinion of the Board, professional experience as a social worker comparable to that of the registered social worker against whom the complaint is made.
- (3) The quorum at any meeting of the disciplinary committee shall be 3 members of whom—
 - (a) not less than 1 shall be a person who is not a registered social worker; and
 - (b) 1 shall be the member referred to in subsection (2)(b)(i) if the registered social worker against whom the complaint is made is a public officer or, in any other case, 1 shall be the member referred to in subsection (2)(b)(ii).
- (4) The members present at a meeting of the disciplinary committee may elect one of their number to preside at the meeting.
- (5) The disciplinary committee shall not proceed to hear evidence of a complaint concerning a disciplinary offence unless the registered social worker in respect of whom the complaint is made is given 28 days' notice of the complaint and the date, time and place of the hearing.

- (6) The registered social worker referred to in subsection (5) shall be entitled—
 - (a) to attend and hear all evidence produced at the hearing;
 - (b) to examine any witness and documents or other evidence produced at the hearing;
 - (c) to call any witness and produce any documents or other evidence at the hearing; and
 - (d) to legal representation.
- (7) After the disciplinary committee has reached a decision on the advice to be given to the Board as to whether the disciplinary offence complained of has been committed and any appropriate disciplinary order that it would recommend in respect of the complaint, it shall report to the Board accordingly.
- (8) The Board shall, after considering the disciplinary committee's decision or recommendation, the reasons in support thereof, any evidence and findings in respect thereof and all relevant circumstances relating thereto, decide whether the disciplinary offence complained of has been committed and notify the complainant concerned of the decision and the reasons therefor.
- (9) Where the Board, after consideration of the advice of the disciplinary committee that a disciplinary offence has been committed or the recommendation that a certain disciplinary order should be made, is of the opinion that the complaint concerned or the recommended disciplinary order requires further investigation, it may refer the complaint back to the disciplinary committee which has reported thereon or to another disciplinary committee which the Board may appoint for further investigation, and may at the time of making such reference or thereafter give directions on matters relating to the complaint or the recommended disciplinary order on which such further investigation should be conducted.
- (10) Where a registered social worker is alleged to have committed a disciplinary offence—
 - (a) under section 25(1)(b), (e) or (f), the disciplinary committee shall not be required to inquire whether the social worker was properly convicted of the alleged offence; and
 - (b) under section 25(1)(b) or (e), the disciplinary committee may consider any record of the case in which a conviction was recorded and any other evidence which is relevant as showing the nature and gravity of the offence.

30. Disciplinary orders

- (1) Where the Board has decided that a registered social worker has committed a disciplinary offence, it shall—
 - (a) order the Registrar to remove the name of the social worker from the Register permanently;
 - (b) order the Registrar to remove the name of the social worker from the Register for such period (not being more than 5 years) as the Board thinks fit;
 - (c) reprimand the social worker in writing and order the Registrar to record the reprimand on the Register; or
 - (d) order that the Chairperson of the Board admonish the social worker orally.
- (2) Where the disciplinary offence referred to in subsection (1) is a disciplinary offence under section 25(1)(f), the Board shall exercise its power under subsection (1)(a).

32. Publication of disciplinary orders

- (1) After the expiry of the time within which an appeal may be made to the Court of Appeal under section 33 against a disciplinary order or, if such an appeal has been made, after the appeal is finally determined, the Board— (*Amended 10 of 2005 s. 113*)
 - (a) shall, where a disciplinary order is made under section 30(1)(a), (b) or (c) and may, where any other disciplinary order is made, publish a copy of the order or, if the order is varied on appeal, the order as so varied in at least one English and one Chinese language newspaper circulating generally in Hong Kong; and
 - (b) may publish the order or, if the order is varied on appeal, the order as so varied in any other publication or manner as the Board thinks fit. (*Amended 10 of 2005 s. 113*)
- (2) Where a disciplinary order is published under subsection (1), the Board—
 - (a) shall publish with such order sufficient particulars to acquaint the public with the nature of the matter to which the order relates; and
 - (b) may publish with such order an account of the proceedings of the disciplinary committee.
- (3) No action in damages for defamation shall lie against any person as a result of publishing a disciplinary order and other particulars required or permitted under this section.

33. Appeal to Court of Appeal

- (1) Any person who is aggrieved by—
 - (a) any decision made in respect of him under section 19(1), 20(4) or 27(8); or
 - (b) any disciplinary order made in respect of him,may appeal to the Court of Appeal.
- (2) The Court of Appeal may affirm, reverse or vary the decision or disciplinary order appealed against.
- (3) Where a person appeals against a decision of the Board under section 27(8) or a disciplinary order, the Court of Appeal shall consider the reasons of the disciplinary committee and of the Board and submissions upon the findings of fact and law of the disciplinary committee made on behalf of the parties to the inquiry and may call for the original record of the evidence taken and any document put in evidence before the disciplinary committee.
- (4) The Court of Appeal may, upon special grounds being shown, consider any additional evidence not adduced before the disciplinary committee.
- (5) *(Repealed 10 of 2005 s. 109)*
- (6) The practice in relation to any appeal shall be subject to any rules of court made under the High Court Ordinance (Cap. 4). *(Amended 25 of 1998 s. 2)*
- (7) The Court of Appeal shall not have power to hear any appeal against—
 - (a) a decision made under section 19(1), 20(4) or 27(8); or
 - (b) a disciplinary order,unless notice of such appeal is given within 3 months of—
 - (i) in the case of paragraph (a), notification of the decision having been given to the person the subject of the decision;
 - (ii) in the case of paragraph (b), the service of the disciplinary order under section 31 or, where section 30(1)(d) is applicable, the date on which the admonition concerned is given.
- (8) In deciding any appeal under this section the Court of Appeal may make such order for payment of costs as it considers reasonable.

38. Fees

- (1) The Board may, subject to any directions given to it under subsection (4), determine the fee payable for any relevant matter.
- (2) The Board may, in a determination under subsection (1), subject to any directions given to it under subsection (4), specify, either generally or specifically, the circumstances in which, and by whom, a fee for any relevant matter may be reduced, waived or refunded, in whole or in part.
- (3) Where the Board has made a determination under subsection (1), it shall, after consultation with the Secretary, as soon as practicable, and subject to any directions given to it under subsection (4), publish a copy of the determination in at least one English and one Chinese language newspaper circulating generally in Hong Kong.
- (4) The Secretary may give directions in writing of a general or specific character to the Board in relation to the exercise of its power under subsection (1) or (2), or the performance of its function under subsection (3), and the Board shall comply with those directions.
- (5) The Board and the Registrar may each refuse to carry out any relevant matter for which any fee (including part of any fee) specified in a determination under subsection (1) remains unpaid.

- (6) In this section, *relevant matter* (有關事宜) means—
- (a) the correction of the Register, whether pursuant to a notice under section 16(3) or otherwise;
 - (b) the provision of a copy of any part of the Register;
 - (c) an application for registration as a registered social worker;
 - (d) an application for renewal of the registration of a registered social worker;
 - (e) an application for the renewal of the registration of a registered social worker received later than 28 days prior to the expiry of the current registration;
 - (f) the extension of the time for renewal of the registration of a registered social worker;
 - (g) the restoration of a name to the Register following the carrying out of a disciplinary order under section 30(1)(b);
 - (h) the extension or further extension of the period specified in section 34(5) in the case of social work service referred to in section 34(4)(a) or (b) provided by a person;
 - (i) the replacement of a certificate of registration which has been lost, defaced or destroyed;
 - (j) any other matter specified under subsection (7) for the purposes of this definition.
- (7) The Secretary may, by notice in the Gazette, specify a matter for the purposes of the definition of *relevant matter*.
- (8) For the avoidance of doubt, it is hereby declared that a notice under subsection (7) is subsidiary legislation.
- (9) The amount of any fee determined under subsection (1) shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to providing the relevant matter to which such fee relates, and different fees may be so determined for the same relevant matter in order to provide for particular circumstances or particular cases specified in the determination concerned made under that subsection.

39. **Amendment of Schedules**

- (1) The Chief Executive in Council may by notice in the Gazette amend Schedule 1. (*Amended 37 of 2000 s. 3*)
- (2) The Secretary may by notice in the Gazette amend Schedule 2.

Schedule 1

[ss. 4(8) & (11), 8(2), 12(2)
(c), 20(4) & 39(1)]

Provisions with respect to Board and Committees and their Members, etc.

Board and members of Board

1. Initial constitution of Board, etc.

- (1) The Board shall, until the relevant date, consist of 6 members of whom—
 - (a) 1 shall be the Chairperson of the Council;
 - (b) 2 shall be other members of the Council appointed by the Chief Executive from amongst nominations submitted to the Secretary for Health and Welfare by the Council;
(Amended 37 of 2000 s. 3; L.N. 106 of 2002)
 - (c) 2 shall be persons appointed by the Chief Executive; and
(Amended 37 of 2000 s. 3)
 - (d) 1 shall be the Director.
- (2) Whilst the Board is constituted as provided in subsection (1), the provisions of this Ordinance shall operate as if—
 - (a) sections 5(1), (2), (4) and (5), 7(1)(b), (c) and (g), 10, 11, 17(2)(b), (3)(b) and (c) and (6), 34(1)(c) and 35(h)(iii), and Part IV, of this Ordinance were omitted;
 - (b) section 4(5) of this Ordinance were omitted and the following substituted—

“(5) The Director shall be the Chairperson of the Board and the members of the Board shall elect from among their number a Deputy Chairperson.”;
 - (c) the number “3” were substituted for the number “8” appearing in section 6(2) of this Ordinance;
 - (d) the number “3” were substituted for the number “6” appearing in section 6(3) of this Ordinance;
 - (e) section 15(1) of this Ordinance were omitted and the following substituted—

“(1) The Director shall appoint a person to be the Registrar—

- (a) until the relevant date; and
- (b) upon such terms and conditions as he thinks fit.”;
- (f) section 17(1)(a) of this Ordinance were omitted and the following substituted—
 - “(a) is the holder of a degree or diploma in social work recognized by the Director, on or before 1 January 1997, for employment in a social work post; or”;
- (g) in section 17(4) of this Ordinance—
 - (i) the word “The” were substituted for the words “Without limiting the generality of subsection (3) (b), the”;
 - (ii) paragraph (a) were omitted.
- (3) The fact that a person is or was a member of the Board under subsection (1)(a), (b) or (c)—
 - (a) shall not of itself prevent the person becoming a member of the Board under section 4(3)(a) or (b) of this Ordinance;
 - (b) shall not be taken into account in calculating any period under section 5(2) of this Ordinance.
- (4) A member of the Board under subsection (1)(b) or (c) may resign by giving notice in writing to the Chief Executive. *(Amended 37 of 2000 s. 3)*
- (5) A member of the Board under subsection (1)(c) holds office at the Chief Executive’s discretion. *(Amended 37 of 2000 s. 3)*
- (6) In this section, **Council** (社專局) means the Hong Kong Social Welfare Personnel Registration Council.
- (7) This section shall expire on the relevant date.

2. Members of Board to disclose interests in respect of certain contracts

- (1) A member of the Board who is in any way directly or indirectly interested in a contract made or proposed to be made by—
 - (a) the Board;
 - (b) a committee; or
 - (c) an employee or agent of the Board,
 shall disclose the nature of his interest at a meeting of the Board.

- (2) The Board shall record the disclosure in the minutes of the meeting of the Board.
- (3) A member who has an interest in a contract referred to in subsection (1)—
 - (a) shall not without the permission of the Chairperson or other member presiding take any part in any deliberation of the Board with respect to that contract; and
 - (b) shall not in any event vote on any matter concerning it.
- (4) For the purposes of subsection (1), a member may give a notice in writing at a meeting of the Board to the effect that he is a member of a company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with the company or firm and the notice shall be regarded as a sufficient disclosure of his interest in relation to any contract so made or proposed to be so made.
- (5) A member of the Board need not attend in person at a meeting of the Board to make a disclosure which he is required to make under this section if he takes reasonable steps to secure that the disclosure is made by a notice in writing which is brought up and read at the meeting.

3. Voting

All matters for determination at a meeting of the Board shall be decided by a majority of votes of the members present and voting and where there is an equality of votes the Chairperson or other member presiding shall have a casting vote in addition to his original vote.

4. Fixing of seal of Board

The fixing of the seal of the Board shall be—

- (a) authorized by the Board; and
- (b) authenticated by the signatures of—
 - (i) the Chairperson; and
 - (ii) any other member of the Board authorized by the Board, either generally or specifically, to act for that purpose.

5. Documents of Board

- (1) The Board may make and execute any document in the performance of its functions or the exercise of its powers or in connection with any matter reasonably incidental to or consequential upon the performance of its functions or the exercise of its powers.
- (2) Any document purporting to be executed under the seal of the Board shall be admitted in evidence and shall, in the absence of evidence to the contrary, be deemed to have been duly executed.

6. Certain documents not required to be sealed

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the Board by any member of the Board generally or specifically authorized by the Board for that purpose.

7. Procedure of Board

Subject to the provisions of this Schedule, the Board shall have power to regulate its own procedure including the manner in which decisions of the Board may be made by a quorum of its members otherwise than at a meeting of the Board.

Committees and members of committees

8. Members of committees

The Board—

- (a) may appoint members of the Board, and persons who are not such members, to be members of a committee other than a disciplinary committee; and
- (b) shall appoint the chairperson of a committee and determine the number of members of a committee.

9. Members of committee to disclose interests in respect of certain contracts

- (1) A member of a committee who is in any way directly or indirectly interested in a contract made or proposed to be made by—
 - (a) the Board;
 - (b) the committee; or
 - (c) an employee or agent of the Board,

shall disclose the nature of his interest at a meeting of the committee.

- (2) The committee shall record the disclosure in the minutes of the meeting of the committee.
- (3) A member who has an interest in a contract referred to in subsection (1)—
 - (a) shall not without the permission of the chairperson of the committee or other member presiding take any part in any deliberation of the committee with respect to that contract; and
 - (b) shall not in any event vote on any matter concerning it.
- (4) For the purposes of subsection (1), a member may give a notice in writing at a meeting of a committee to the effect that he is a member of a company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with the company or firm and the notice shall be regarded as a sufficient disclosure of his interest in relation to any contract so made or proposed to be so made.
- (5) A member of a committee need not attend in person at a meeting of the committee to make a disclosure which he is required to make under this section if he takes reasonable steps to secure that the disclosure is made by a notice in writing which is brought up and read at the meeting.

Finances, etc. of Board

10. Resources of Board

- (1) The resources of the Board shall consist of—
 - (a) until the relevant date, all money—
 - (i) paid by the Government to the Board and appropriated for that purpose by the Legislative Council; and
 - (ii) otherwise provided to the Board by the Government; and
 - (b) all other money and property, including gifts, donations, fees, rent, interest and accumulations of income received by the Board.
- (2) Subsection (1)(a) shall expire on the relevant date.

11. Accounts, audit and annual report of Board

- (1) The Board shall cause proper accounts to be kept of all its financial transactions.

- (2) The Board shall, as soon as practicable after the expiry of a financial year, prepare a statement of the accounts of the Board, which statement shall include an income and expenditure account and a balance sheet.
- (3) The Board shall appoint an auditor who shall, as soon as practicable, audit the accounts required under subsection (1) and the statement of accounts required under subsection (2) and shall submit a report on the statement to the Board.
- (4) The Board shall, as soon as practicable and in any case not later than 9 months after the expiry of a financial year (or such further period as the Secretary allows), furnish—
 - (a) a report on the activities of the Board during that year including a general survey of developments during that year, in respect of matters falling within the scope of the Board's functions;
 - (b) a copy of the statement of accounts required under subsection (2); and
 - (c) the auditor's report on the statement,to the Secretary who shall cause the same to be tabled in the Legislative Council.
- (5) This section shall expire on the relevant date.

12. Director of Audit's examination

- (1) The Director of Audit may, in respect of any financial year, conduct an examination into the economy, efficiency and effectiveness with which the Board has expended its resources in performing its functions and exercising its powers.
- (2) Subject to subsection (3), the Director of Audit shall have a right of access at all reasonable times to all such documents as he may reasonably require for conducting an examination under this section and shall be entitled to require from any person holding or being accountable for any such document such information and explanation as he considers reasonably necessary for that purpose.
- (3) Subsection (2) applies only to documents in the custody and control of the Board.
- (4) Subsection (1) shall not operate to entitle the Director of Audit to question the merits of the policy objectives of the Board.
- (5) This section shall expire on the relevant date.

Delegations

13. Provisions to which section 12(1) of this Ordinance shall not apply

Sections 8 and 11(3) shall not be subject to section 12(1) of this Ordinance.